

REMARKS

This Amendment is submitted in response to the Office Action dated January 10, 2005. In the Office Action, the Patent Office objected to the drawings as failing to show every feature of the invention specified in the claims. Further, the Patent Office objected to Claim 14 for failure to be in one-sentence form and Claim 18 as lacking antecedent basis for the term "the plurality of roof panels." Still further in the Office Action, the Patent Office rejected Claims 1, 2, 4-7, 9, and 18-20 under 35 U.S.C. §102(e) as being anticipated by *Cherry* (U.S. Patent No. 6,415,558). Moreover, Claims 3 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Cherry*. Further, the Patent Office rejected Claims 10-17 under 35 U.S.C. §103(a) as being unpatentable over *Cherry* in view of *Waller* (U.S. Patent No. 5,813,174).

By the present Amendment, Applicant amended Claims 1-3, 6-10, 12, 14-16, and 18. Applicant asserts that the amendments to the claims and the remarks that follow overcome the objections and rejections made by the Patent Office and place the application in condition for allowance. Notice to that effect is requested.

In the Office Action, the Patent Office objected to the drawings as failing to show every feature of the invention specified in the claims. Namely, the Patent Office objected to a feature in Claim 10 that requires "the portion of the wall panel extending to the second end of the wall panel being connected to

the portion of the roof panel that extends toward the second end of the roof panel." The Patent Office asserts that Fig. 5 shows the portion of the roof panel that extends towards the second end of the roof panel connecting to the portion of the wall panel that extends to the interior of the shanty.

In response to the objection of the Patent Office, Applicant amended independent Claim 10 to require a plurality of wall panels wherein each of the plurality of wall panels is defined by a body having a length defined between a first end and a second end. Further, independent Claim 10, as amended, requires a section that is integrally formed with each of the plurality of wall panels at the first end. The section extends a first distance perpendicular to the body of each of the plurality of wall panels and extends a second distance toward the second end of each of the plurality of wall panels.

Still further, independent Claim 10, as amended, requires a roof panel contacting the plurality of wall panels at the first end. The roof panel is defined by a body having a length defined between a first end and a second end wherein a section is integrally formed with the roof panel at the first end. The section extends the first distance perpendicular to the body of the roof panel and extends the second distance toward the second end of the roof panel.

Moreover, independent Claim 10, as amended, requires a fastener that attaches one of the plurality of wall panels to the roof panel. The section of the one of the plurality of wall panels extending perpendicular to the body of the one of the plurality of wall panels is attached to the section of the roof panel extending toward the second end of the roof panel.

Applicant asserts that independent Claim 10, as amended, requires features that are consistent with the features shown in Fig. 5. Moreover, Applicant asserts that the drawings show every feature of the invention specified in independent Claim 10. Accordingly, Applicant asserts that the foregoing amendment to Claim 10 and foregoing remarks overcome the objection to the drawings. Therefore, the objection to the drawings should be withdrawn. Notice to that effect is requested.

In the Office Action, the Patent Office objected to Claim 14 for failure to be in one-sentence form. In response, Applicant amended Claim 14 to define the system of Claim 10 having a door positioned adjacent to one of the plurality of wall panels. Applicant asserts that the foregoing amendment to Claim 14 overcomes the objection to Claim 14. Accordingly, the objection to Claim 14 should be withdrawn. Notice to that effect is requested.

In the Office Action, the Patent Office objected to Claim 18 as lacking antecedent basis for the term "the plurality of roof panels." In response, Applicant amended Claim 18 to include the

step of fastening one of the plurality of walls to the roof panel. Applicant asserts that the foregoing amendment to Claim 18 overcomes the objection to Claim 18. Accordingly, the objection to Claim 18 should be withdrawn. Notice to that effect is requested.

In the Office Action, the Patent Office rejected Claims 1, 2, 4-7, 9, and 18-20 under 35 U.S.C. §102(e) as being anticipated by *Cherry*. The Patent Office alleges that:

"In regard to claim 1, *Cherry* discloses a shanty comprising: [a] plurality of walls 30... wherein each of the walls has a length defined between a first end and a second end and a width defined between a third end and a fourth end, wherein a section 40 of each of the walls at the first end extends into the interior of the room, and a plurality of roof panels 30 defining a ceiling for the room, wherein each of the roof panels has a length defined between first end and second end and a width defined between third end and fourth end, wherein a section 40 of each of the roof panels at the first end extends into the interior of the room and further wherein the section of one of the walls extending into the interior is attached to the section of one of the roof panels extending into the interior wherein the plurality of walls and the plurality of roof panels attach to define the room.

Moreover, the Patent Office alleges that:

"In regard to claims 18-20, *Cherry* discloses a method for assembling a shanty having an interior, the method comprising the steps of providing a plurality of wall panels, providing a plurality of roof panels, [and] fastening one of the wall panels to one of the plurality of roof panels... The structure of the panels claimed in claim 18 can be seen in the above rejection of claim 1."

Applicant respectfully asserts that Claims 1, 2, 4-7, 9, and 18-20 are not properly rejected under 35 U.S.C. §102(e) in view of *Cherry*, because *Cherry* was filed and issued before the filing date

of Applicant's application. Accordingly, Applicant responds to the rejection as a 35 U.S.C. §102(b) rejection.

Independent Claim 1, as amended, defines a shanty having a plurality of walls defining a room having an interior. Each of the plurality of walls has a body defined by a length and a width. The length is defined between a first end and a second end and the width is defined between a third end and a fourth end. Further, independent Claim 1, as amended, requires that a section of each of the plurality of walls at the first end, the second end, the third end, and the fourth end extend a first distance into the interior of the room and extend a second distance parallel to the body of each of the plurality of walls.

Still further, independent Claim 1, as amended, requires a plurality of roof panels defining a ceiling for the room wherein each of the plurality of roof panels has a body defined by a length and a width. The length is defined between a first end and a second end and the width is defined between a third end and a fourth end. Moreover, independent Claim 1, as amended, requires that a section of each of the plurality of roof panels at the first end extend into the interior of the room and further extend parallel to the body of each of the plurality of roof panels. The section of one of the plurality of walls is attached to the section of one of the plurality of roof panels.

Independent Claim 18, as amended, defines a method for assembling a shanty. The method requires the step of providing a plurality of walls defining a room having an interior wherein each of the plurality of walls has a perimeter defining a plane between four edges. A first portion of each of the plurality of walls at each of the four edges extends into the interior of the room and abuts a second portion that extends parallel to the plane of each of the plurality of walls.

Further, independent Claim 18, as amended, requires the step of providing a roof panel defining a ceiling for the room wherein the roof panel has a length defined between a first end and a second end. A first section of the roof panel at the first end extends into the interior of the room and abuts a second section of the roof panel wherein the second section of the roof panel extends toward the second end. Moreover, independent Claim 18, as amended, requires the step of fastening the first portion of one of the plurality of walls to the second section of the roof panel.

Contrary to the assertions of the Patent Office, *Cherry* merely teaches steel panels formed into a shape that "includes [a] flat section 32 and a C-section 34 at each side of the panel comprising a web 36 and an inturned flange 38. In addition, each panel 30 is provided with a folded and welded flat section 40 at each end." As shown in Fig. 3, the steel panels taught by *Cherry* have a C-section

at two opposing sides of the panels and a welded flat section at the two remaining sides of the panels.

Nowhere does *Cherry* teach a plurality of walls having a body defined by a length and a width wherein the length is defined between a first end and a second end and the width is defined between a third end and a fourth end, wherein a section of each of the plurality of walls at the first end, the second end, the third end, and the fourth end extends a first distance into the interior of the room and further extends a second distance parallel to the body of each of the plurality of walls, as required by independent Claim 1, as amended. Further, nowhere does *Cherry* teach the section of one of the plurality of walls attaching to the section of one of the plurality of roof panels, as required by independent Claim 1, as amended.

Moreover, nowhere does *Cherry* teach a method that requires the step of providing a plurality of walls that each have a perimeter defining a plane between four edges wherein a first portion of each of the plurality of walls at each of the four edges extends into the interior of the room and abuts a second portion of each of the plurality of walls which extends parallel to the plane of each of the plurality of walls, as required by independent Claim 18, as amended. Further, nowhere does *Cherry* teach the step of providing a roof panel having a length defined between a first end and a second end wherein a first portion of the roof panel at the first

end extends into the interior of the room and abuts a second portion of the roof panel wherein the second portion of the roof panel extends toward the second end, as required by independent Claim 18, as amended. Still further, nowhere does *Cherry* teach the step of fastening the first portion of one of the plurality of walls to the second portion of the roof panel, as required by independent Claim 18, as amended.

Under 35 U.S.C. §102, anticipation requires that a single reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d. 1241, 1245 (Fed. Cir. 1986). Moreover, anticipation is not shown even if the differences between the claims and the references are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

In view of the foregoing, since *Cherry* fails to teach every element of independent Claim 1 and independent Claim 18, the rejection under 35 U.S.C. §102(e) has been overcome and should be withdrawn. Notice to that effect is requested.

In the Office Action, the Patent Office rejected Claims 3 and 8 under 35 U.S.C. §103(a) as being unpatentable over *Cherry*. As shown by the foregoing remarks, nowhere does *Cherry* teach or suggest the elements of independent Claim 1, as amended, from which

Claims 3 and 8 depend. Therefore, the rejection under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Notice to that effect is requested.

Further, in the Office Action, the Patent Office rejected Claims 10-17 under 35 U.S.C. §103(a) as being unpatentable over *Cherry* in view of *Waller*. This rejection is traversed for the reasons that follow.

In the Office Action, the Patent Office alleged that:

"In regard to Claim 10, *Cherry* discloses a system comprising a plurality of wall panels... [having] a length between a first end and a second end wherein a section of each of the wall panels at the first end extends toward an interior of the room... [a] roof panel [that] has a length defined between a first end and a second end, wherein the section of the roof panel at the first end extends toward an interior of the room, and a fastener 46 attaching one of the wall panels to the roof panel."

However, the Patent Office noted that "*Cherry* does not specifically disclose that the roof and wall panels have a portion extending toward the second ends of each of the panels. *Waller* teaches that it is known to provide panels that have a portion 44 (figure 10) extending toward a second end of the panels."

Independent Claim 10, as amended, defines a system having a plurality of wall panels defining a room wherein each of the plurality of wall panels is defined by a body having a length defined between a first end and a second end. A section is integrally formed with each of the plurality of wall panels at the first end and extends a first distance perpendicular to the body of

each of the plurality of wall panels and further extends a second distance toward the second end of each of the plurality of wall panels.

Further, independent Claim 10, as amended, requires a roof panel contacting the plurality of wall panels at the first end to provide a ceiling for the room. The roof panel is defined by a body having a length defined between a first end and a second end. Still further, independent Claim 10, as amended, requires a section that is integrally formed with the roof panel at the first end and extends the first distance perpendicular to the body of the roof panel and further extends the second distance toward the second end of the roof panel. Moreover, independent Claim 10, as amended, requires a fastener attaching one of the plurality of wall panels to the roof panel wherein the section of the one of the plurality of wall panels extending perpendicular to the body of the wall panel is attached to the section of the roof panel extending toward the second end of the roof panel.

On the contrary, *Waller* merely teaches or suggests "modular wall, floor and ceiling panels [that] are individually assembled through the use of bent plate C-shaped panels 30 and snap-in bent plate connectors 44" (see column 5 lines, 31-35). Further, *Waller* merely teaches or suggests that "a panel snap-in bent plate connector 44 is used to connect the end of panels 30 to the frame of the closet vault."

Nowhere do *Cherry* or *Waller*, taken singly or in combination, teach or suggest a section that is integrally formed with each of the plurality of wall panels at the first end and extends a first distance perpendicular to the body of each of the wall panels and further extends a second distance toward the second end of each of the wall panels, as required by independent Claim 10, as amended. Further, nowhere do *Cherry* or *Waller*, taken singly or in combination, teach or suggest a section that is integrally formed with the roof panel at the first end and extends the first distance perpendicular to the body of the roof panel and further extends the second distance toward the second end of the roof panel, as required by independent Claim 10, as amended. Still further, nowhere do *Cherry* or *Waller*, taken singly or in combination, teach or suggest a fastener attaching one of the wall panels to the roof panel wherein the section of the wall panel extending perpendicular to the body of the wall panel is attached to the section of the roof panel extending toward the second end of the roof panel, as required by independent Claim 10, as amended.

Further, Applicant asserts that one of ordinary skill in the art at the time of Applicant's invention would never have been motivated to combine *Cherry* and *Waller* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103(a). It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed

invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972). That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

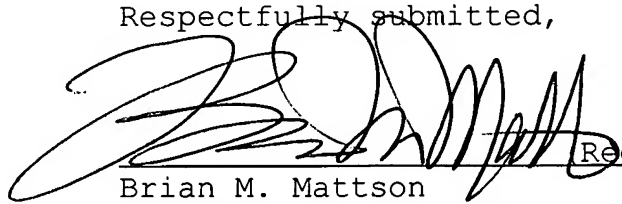
It is insufficient that the art disclosed components of Applicant's invention. A teaching, suggestion, or incentive must exist to make the modification made by Applicant. Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

In view of the foregoing remarks and amendments, Applicant respectfully submits that the rejection of Claims 10-17 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Notice to that effect is requested.

Claims 2-9 depend from Claim 1; Claims 11-17 depend from Claim 10; and Claims 19 and 20 depend from Claim 18. These claims are further believed allowable over *Cherry* or *Cherry* in view of *Waller* since each sets forth additional structural elements and novel steps of Applicant's shanty, system and method, respectively.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If, however, any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

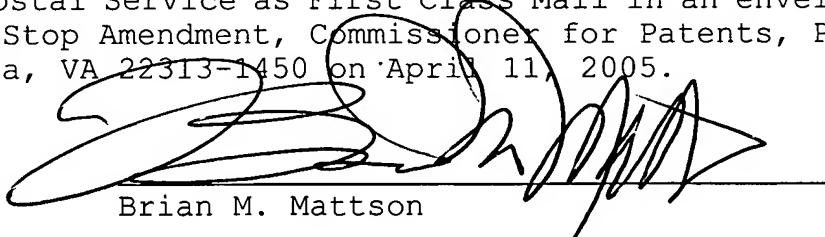


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CERTIFICATE OF MAILING

I hereby certify that this **Amendment** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 11, 2005.



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